

Notice of Allowability

Application No.

10/821,328

Examiner

ALEX NOGUEROLA

Applicant(s)

GUZMAN, NORBERTO A.

Art Unit

1753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to March 21, 2005.
2. ☒ The allowed claim(s) is/are 36-77.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 3/08/2006
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☒ Other See Continuation Sheet.

Continuation of Attachment(s) 9. Other: IDS of January 25, 2006 and IDS of November 03, 2005.

DETAILED ACTION

EXAMINER'S AMENDMENT

1. The application has been amended as follows: on page 1 of the specification, underneath the title the following has been inserted -- This application is a continuation of U.S. application no. 09/436,186, filed November 08, 1999, now U.S. Patent No. 6,406,604. --

Allowable Subject Matter

2. Claims 36-77 are allowed.

3. The following is an examiner's statement of reasons for allowance: independent claim 36 requires "a transport passage having a sample inlet end and an outlet end," the first separation passage to cross over the transport passage, the first affinity means to be in the first intersection, the second separation passage to cross over the transport passage, and the second affinity means to be in the second intersection.

In Foote (US 5,944,971) the first and second separation passages (16,18) intersect the transport passage (20) at first and second intersections, respectively. However, the separation passages do not cross over the transport passage. The

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separation passages end at the transport passage to form tee junctions. An electrode (30) runs along a continuous wall of the transport passage for creating an electrophoresis separation field down the separation passages. See Figure 1 and column 6, lines 51-60.

In Wiktorowicz (US 6,013,165) the first and second separation passages (170) intersect the transport passage (160) at first and second intersections, respectively. However, the separation passages do not cross over the transport passage. The separation passages end at the transport passage to form tee-type junctions. See Figures 3 and 4. Additionally, Wiktorowicz does not provide affinity means, such as antibodies, in the first and second intersections, but, in one related embodiment, immobilines for creating a pKa gradient along the transport passage. See column 15, lines 25-32.

In the embodiment of Figure 9 of Nelson there is only a first separation passage. The sample that passes through the first affinity means is immediately directed to a waste outlet. There is no suggestion to provide a second separation passage with a second affinity means as claimed. See column 14, lines 31-51 and Figure 9.

The claims in Guzman (US 6,406,604 B1) do not require at least two of the separation passages to cross over the transport passage. Also independent claims 1 and 14 of Guzman require the sample inlet to be provided by an introduction capillary, not the transport capillary.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEX NOGUEROLA whose telephone number is (571) 272-1343. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NAM NGUYEN can be reached on (571) 272-1342. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alex Noguera
Primary Examiner
AU 1753
April 28, 2006